ON-CALL DUTY BINDER



ADMINISTRATIVE OFFICE OF THE COURTS

JUDICIAL AND COURT OPERATIONS SERVICES DIVISION

CENTER FOR JUDICIARY EDUCATION AND RESEARCH

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INTRODUCTION—DUTY ROTATIONS

The presiding judge for each court must designate at least one judge to be reasonably available on call as a magistrate for

- issuing search and arrest warrants,
- setting orders for discharge from custody on bail, and
- any other matters deemed appropriate

at all times when the court is not in session. Pen C §810(a).

This On-Call Duty Binder summarizes your responsibilities when acting on requests for search warrants and emergency protective orders and reviewing probable cause declarations after warrantless arrests, while serving as the on-call magistrate on nights and weekends. For a discussion of release on bail, see California Judges Benchguide 55, *Bail and Own-Recognizance Release*. See http://www.courtinfo.ca.gov/protem/pubs/index.htm. For a detailed discussion of search and seizure law, see California Judges Benchbook: Search and Seizure (2d ed CJER/CEB 2002).

Note that some courts have their own on-call binder or pouch that is passed along with the duty rotation and that may contain local forms, contact numbers, and checklists, and sometimes a cell phone that is used as the duty phone.

I. SEARCH WARRANTS—AUTHORITY AND GROUNDS

A. [§1.1] Constitutional Protection

People have the right to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures. Search warrants may not be issued except "upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." US Const amend IV; Cal Const art I, §13.

Thus, searches and seizures inside a home without a warrant are presumptively unreasonable, and absent exigent circumstances, a warrantless entry to search for weapons or contraband is unconstitutional even when a felony has been committed and there is probable cause to believe that incriminating evidence will be found within. *People v Magee* (2011) 194 CA4th 178, 183, 123 CR3d 689.

The government's installation of a GPS device on a target's vehicle, and its use of that device to monitor the vehicle's movements, constitutes a "search." *US v Jones* (2012) ____ US __, 132 S Ct 945, 949, 181 L Ed 2d 911.

B. [§1.2] Search Warrant Defined

A search warrant is an order in writing, in the name of the people, signed by a magistrate, directed to a peace officer, commanding him or her to search for a person or persons, a thing or things, or personal property, and, in the case of a thing or things or personal property, to bring the same before the magistrate. Pen C §1523.

In California, superior court judges as well as state Supreme Court and court of appeal justices are magistrates for purposes of issuing warrants. Pen C §§807, 808. The informed and deliberate determinations of magistrates empowered to issue warrants are to be preferred over the hurried action of officers. *Aguilar v Texas* (1964) 378 US 108, 110, 48 S Ct 1509, 12 L Ed 2d 723. "Magistrate" for purposes of issuing search warrants does not include subordinate judicial officers. Pen C §808; 61 Ops Cal Atty Gen 487 (1978).

C. [§1.3] Statutory Grounds

Penal Code §1524(a)(1)–(5) and (j) authorize search warrants for:

- Stolen or embezzled property;
- Property or things that were used as the means of committing a felony;
- Property or things that are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them to conceal or prevent discovery;
- Property or things that are evidence that tend to show a felony has been committed, or that a particular person has committed a felony;

- Property or things that are evidence that tend to show the sexual exploitation of a child in violation of Pen C §311.3, or the possession of matter showing sexual conduct of a person under the age of 18 in violation of Pen C §311.11; or
- Property or things that are evidence that tend to show ID theft in violation of Pen C §530.5.

Penal Code §1524(a)(9)–(11) authorizes search warrants for property or things that include:

- A firearm or other deadly weapon at the scene of, or at the premises occupied or under the control of the person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault (see Pen C §18250);
- A firearm or other deadly weapon that is owned by, in the possession of, or in the custody or control of a person detained or apprehended for a mental examination (see Welf & I C §8102); or
- A firearm that is owned by, in the possession of, or in the custody or control of a
 person who is subject to Fam C §6389 firearm prohibitions, if the firearm is
 possessed, owned, in the custody of, or controlled by a person subject to a Fam C
 §6218 protective order; the person was lawfully served with the order; and the
 person failed to relinquish the firearm.

A search warrant may also issue on the ground that an arrest warrant was issued. Pen C §1524(a)(6); see §3.4.

A warrant may issue when the information to be received from the use of a *tracking device* constitutes evidence that tends to show that (Pen C §1524(a)(12)):

- A felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code has been committed or is being committed, or
- A particular person has committed or is committing any of these offenses, or will assist in locating an individual who has committed or is committing any of these offenses.

A tracking device search warrant must be executed in a manner meeting the requirements specified in Pen C §1534. Pen C §1524(a)(12); see §4.2.

A warrant may issue when the property or thing to be seized includes any evidence that tends to show a violation of Lab C §3700.5, or a violation by a particular person, relating to an employer's failure to secure payment of worker's compensation, although this is rare. Pen C §1524(a)(8).

D. [§1.4] Search Warrant for Electronic Data

A search warrant may also issue for records or evidence in the possession of an "electronic communications service" or "remote computing service" that show

misdemeanor theft or embezzlement, or show that a person possesses things that he or she intends to use to commit a misdemeanor public offense. Pen C §1524(a)(7).

Under the California Right to Financial Privacy Act (Govt C §§7460–7493), a search warrant may issue for disclosure of a customer's financial information by financial institutions. Govt C §7475; Govt C §7465(a) (defining "financial institution"). You may order that the customer not be notified of the warrant if you find that disclosure would impede the criminal investigation. Govt C §7475.

A telephone company generally must obtain a residential customer's consent before disclosing the customer's records. Pub Util C §2891(a). Consent is not required, however, for disclosure to a law enforcement agency under lawful process (Pub Util C §2891(d)(6)), and good faith disclosure under a warrant is a complete defense to a civil action (Pub Util C §2894(a)).

Subscriber information provided to an internet provider is not protected by the Fourth Amendment's privacy expectation. E-mail and Internet users have no expectation of privacy in the to/from addresses of their messages or the IP addresses of the websites they visit because they should know that this information is provided to and used by Internet service providers for the specific purpose of directing the routing of information. Like telephone numbers, which provide instructions to the switching equipment that processed those numbers, e-mail to/from addresses and IP addresses are not merely passively conveyed through third-party equipment, but rather are voluntarily turned over in order to direct the third party's servers. *People v Stipo* (2011) 195 CA4th 664, 668–669, 124 CR3d 688.

- **► Judicial Tip:** The 9th Circuit has issued the following advisory guidelines for requests for electronic evidence by federal prosecutors. These guidelines may help you craft an appropriately limited state warrant to search computer files or other electronic devices (see *U.S. v Comprehensive Drug Testing Inc.* (9th Cir Cal 2010) 621 F3d 1162, 1178–1180 (concurring opinion of Kozinski, CJ)):
- 1. Insist that the government waive reliance on the plain view doctrine in digital evidence cases.
- 2. Electronic data should be segregated and redacted by specialized personnel or an independent third party. If the segregation is to be done by government computer personnel, the government must agree in the warrant application that the computer personnel will not disclose to the investigators any information other than that which is the target of the warrant.
- 3. Warrants and subpoenas must disclose the actual risks of destruction of information as well as prior efforts to seize that information in other judicial fora.
- 4. The government's search protocol must be designed to uncover only the information for which it has probable cause, and only that information may be examined by the case agents.

5. The government must destroy or, if the recipient may lawfully possess it, return non-responsive data, keeping you informed about when it has done so and what it has kept.

E. [§1.5] Probable Cause for Search Warrant

The basic standard to issue a search warrant for probable cause is **whether**, **given all the facts and circumstances set forth in the affidavit, there is a fair probability that contraband or evidence of a crime will be found in a particular place.** *Illinois v Gates* **(1983) 462 US 213, 238, 103 S Ct 2317, 76 L Ed 2d 527;** *People v Bennett* **(1998) 17 C4th 373, 391, 70 CR2d 850;** *Safford Unified Sch. Dist. #1 v Redding* **(2009) 557 US 364, 129 S Ct 2633, 2639, 174 L Ed 2d 354.**

The essential inquiry to issue a search warrant for probable cause differs from that for an arrest warrant. An arrest warrant is concerned with a suspect's probable guilt; a search warrant is concerned with the existence and location of seizable property. *People v Cook* (1978) 22 C3d 67, 84 n6, 148 CR 605; *People v Fernandez* (1989) 212 CA3d 984, 989, 261 CR 29. A search warrant may issue for a place whose occupants are not suspected of any crime. See, *e.g.*, *Zurcher v Stanford Daily* (1978) 436 US 547, 554, 563, 98 S Ct 1970, 56 L Ed 2d 525 (search of newspaper premises for photographic evidence of assaults by demonstrators).

Probable cause to search requires a **double linkage**:

- One that links the items to be seized to an offense, and
- Another that connects them to the place to be searched.

People v Barnum (1980) 113 CA3d 340, 346, 169 CR 840. In comparison, probable cause to arrest requires a single linkage between a suspect and a crime.

Except for an anticipatory or contingent warrant, a search under a warrant is valid only if probable cause exists when you issue the warrant and when it was executed. *Sgro v U.S.* (1932) 287 US 206, 210, 53 S Ct 138, 77 L Ed 260; *People v Cleland* (1990) 225 CA3d 388, 393, 275 CR 126.

Examples of probable cause: An anonymous tip followed by a controlled buy. *People v Berkoff* (1985) 174 CA3d 305, 310–311, 219 CR 878. A confidential informant's tip of drug trafficking followed by surveillance of alleged dealer transporting full duffel bags in different vehicles to another apartment. *People v Lamas* (1991) 229 CA3d 560, 567–568, 282 CR 296. Suspect seen driving slowly past burglarized premises three times during the time a later-reported burglary occurred, and suspect's prints found at premises; sufficient probable cause to search suspect's residence. *People v Superior Court* (Brown) (1975) 49 CA3d 160, 167, 122 CR 459.

Examples of no probable cause: Reliable information of heavy foot traffic alone without further evidence of criminally suspicious activity. *Bailey v Superior Court* (1992) 11 CA4th 1107, 1112–1113, 15 CR2d 17. Fact that a drug dealer parks behind a residence is not enough alone without a showing he lives there or uses the residence.

People v Hernandez (1994) 30 CA4th 919, 923–925, 35 CR2d 916. Fact that DUI arrestee possessed personal-use amount of methamphetamine does not justify search of his residence. *People v Pressey* (2002) 102 CA4th 1178, 1182, 1190, 126 CR2d 162.

F. [§1.6] Sufficiency of Affidavit

The affidavit and the warrant must describe the place to be searched and the things to be seized "with reasonable particularity." Pen C §§1525, 1529. The particularity requirement helps assure that a search or seizure will not take on the character of a wideranging exploratory search. *Maryland v Garrison* (1987) 480 US 79, 84, 107 S Ct 1013, 94 L Ed 2d 72; *People v Robinson* (2010) 47 C4th 1104, 1132, 104 CR3d 727; *People v Farley* (2009) 46 C4th 1053, 1094, 96 CR3d 191.

Exact precision, however, is not required in the affidavit and warrant. For example, an affidavit authorizing the seizure of items showing a person's dominion and control over the searched premises has been held to authorize the seizure of a laptop computer even though "computers" were not listed in the warrant. A warrant authorizing the seizure of any items constituting "gang indicia" supports the seizure of a cell phone. *People v Rangel* (2012) 206 CA4th 1310, 1316–1317, 142 CR3d 728.

An affidavit often links a named suspect to a crime such as burglary. The affidavit describes the items taken, provides information as to the suspect's current residence, and requests a warrant to search the residence for the stolen property. Although neither the affiant nor the magistrate knows whether the items are at that location, their probable presence must be able to be inferred from the known facts. *People v Superior Court* (Brown) (1975) 49 CA3d 160, 167, 122 CR 459; *People v Schoennauer* (1980) 103 CA3d 398, 410, 163 CR 161.

Generally the affidavit must be in writing and signed by the affiant. Pen C §1526(a); *Charney v Superior Court* (1972) 27 CA3d 888, 891, 104 CR 213.

In determining probable cause, you may properly consider an affiant's opinion based on his or her training, experience, or expertise. See, *e.g.*, *Johnson v U.S.* (1948) 333 US 10, 13, 68 S Ct 367, 92 L Ed 2d 436; *People v Mayoff* (1986) 42 C3d 1302, 1319, 233 CR 2. It is not necessary that the affiant qualify as an expert witness to be able to form a reasonable opinion. *Wimberly v Superior Court* (1976) 16 C3d 557, 565, 128 CR 641. You may consider the affiant's opinions when they follow logically from factual recitals in the affidavit or are based on common sense.

An affidavit that recites only opinions or conclusions, however, is insufficient. *Illinois v Gates* (1983) 462 US 213, 239, 103 S Ct 2317, 76 L Ed 2d 527; *People v Smith* (1986) 180 CA3d 72, 86, 225 CR 348. You must be presented facts and not conclusory statements if you are to perform your detached function and not become a rubber stamp for the police. *People v Pellegrin* (1977) 78 CA3d 913, 916, 144 CR 421. The affidavit should leave any significant inference-drawing to you. *People v Smith, supra,* 180 CA3d at 87.

► Judicial Tip. Look carefully at the description in the warrant and affidavit. Could any law enforcement officer pick up the warrant and immediately

recognize the person, location, and property to be searched and items to be seized? Affidavits, however, are often written in haste by nonlawyers. In interpreting affidavits, your emphasis should be on practicality and common sense; avoid hypertechnical constructions. *Illinois v Gates* (1983) 462 US 213, 236, 103 S Ct 2317, 76 L Ed 2d 527; *People v Mesa* (1975) 14 C3d 466, 469, 121 CR 473.

G. [§1.7] Hearsay and Informants

Affidavits can and often do recite considerable hearsay and even double hearsay (see, e.g., People v Love (1985) 168 CA3d 104, 108, 214 CR 483); hearsay is inevitable whenever the affiant receives information from others, whether they are police officers, citizen informants, or police informants (People v Superior Court (Bingham) (1979) 91 CA3d 463, 472, 154 CR 157). Hearsay can establish probable cause as long as the totality of circumstances indicates its overall reliability. Illinois v Gates (1983) 462 US 213, 241–242, 103 S Ct 2317, 76 L Ed 2d 527 (upholding search warrant based on corroborated tip of anonymous informant).

Ask yourself the following questions:

- Whether the police informant's statement is factual rather than conclusory;
- Whether it rests on personal knowledge (such knowledge may be inferred from detailed factual allegations) (*Alexander v Superior Court* (1973) 9 C3d 387, 391–392, 107 CR 483);
- Whether the police informant is credible (e.g., a showing in the affidavit that he or she has supplied accurate information in the past); or
- Whether the information is reliable (*i.e.*, corroborated if an untested informant). Probable cause should be determined in a common sense, practical fashion and not by formulas. Corroboration of information from anonymous or untested informants, other than citizen informants, remains essential, however. See, *e.g.*, *People v Johnson* (1990) 220 CA3d 742, 749, 270 CR 70; and
- Whether the informant is paid or receiving other considerations (asked by some judges).

Reliable informants may include peace officers, official channels, tested informants, good citizens, and business records.

Good faith exception. Evidence obtained by police officers acting in reasonable reliance on a search warrant issued by a detached and neutral magistrate is ordinarily not excluded under the Fourth Amendment, even if a reviewing court ultimately determines that the warrant is not supported by probable cause. This is commonly referred to as the good faith exception to the exclusionary rule. However, this exception is inapplicable if the affidavit was so lacking in indicia of probable cause that it would be entirely

unreasonable for an officer to believe such cause existed. The question is whether a well-trained officer should reasonably have *known* that the affidavit failed to establish probable cause (and hence that the officer should not have sought a warrant). An officer applying for a warrant must exercise reasonable professional judgment and have a reasonable knowledge of what the law prohibits. If the officer reasonably could have believed that the affidavit presented a close or debatable question on the issue of probable cause, the seized evidence need not be suppressed. *People v French* (2011) 201 CA4th 1307, 1323, 134 CR3d 383; see also §1.8.

The prosecution has the burden of proving that the officer's reliance on the warrant was objectively reasonable. Application of the good faith exception requires a factual presentation of the officers' activity, which is then measured against a standard of objective reasonableness. This objective standard requires officers to have a reasonable knowledge of what the law prohibits. *People v French*, *supra*, 201 CA4th at 1323–1324 (debatable question whether multiple unreliable informants can corroborate each other).

H. [§1.8] Territorial Jurisdiction

A magistrate can issue a search warrant for any location in the county in which his or her court is located. *People v Smead* (1985) 175 CA3d 1101, 1103, 223 CR 303.

A magistrate also has jurisdiction to issue an out-of-county search warrant if he or she finds that the search relates to a crime committed in his or her county, and thus pertains to a present or future prosecution in that county. *People v Fleming* (1981) 29 C3d 698, 701, 175 CR 604. A warrant for an out-of-county search unrelated to a crime in the issuing magistrate's county is invalid, but courts have upheld the search by applying the *Leon* good-faith exception. *People v Ruiz* (1990) 217 CA3d 574, 578–579, 265 CR 886; see *U.S. v Leon* (1984) 468 US 897, 104 S Ct 3405, 82 L Ed 2d 677. The Supreme Court in *Leon* held that the Fourth Amendment exclusionary rule should be modified so as not to bar the use in the prosecution's case-in-chief of evidence obtained by officers acting in reasonable reliance on a search warrant issued by a detached and neutral magistrate but ultimately found to be unsupported by probable cause. *U.S. v Leon, supra*, 468 US at 900, 922.

A magistrate lacks jurisdiction to issue a search warrant to a peace officer of another county for a search in the magistrate's county for evidence of a local crime that has no relationship to criminal activity in the other county. *People v Galvan* (1992) 5 CA4th 866, 870, 7 CR2d 195 (evidence admissible under *Leon* good-faith exception); Pen C §1528(a).

I. [§1.9] Other Limitations on Warrants

News Media. You may not issue a search warrant for any items described in Evid C §1070. Pen C §1524(g). Evidence Code §1070 protects sources of information and unpublished information provided to the news media. Federal law also prohibits the seizure of work product materials or documents possessed by a person with the intent of disseminating the information to the public. Seizure is permitted, however, if certain

crimes were committed or if necessary to prevent serious injury or death. 42 USC §2000aa.

Bodily Intrusions. Search warrants authorizing bodily intrusions must show probable cause that the minor intrusions, such as taking blood, will reveal evidence of a crime. But the more intense, undignified, or risky the proposed invasion, "the greater must be the showing for the procedure's necessity." *People v Scott* (1978) 21 C3d 284, 292–293, 145 CR 876. The additional factors that must be weighed are (1) the reliability of the method, (2) the seriousness of the offense, (3) the strength of suspicion that evidence will be revealed, (4) the importance of the evidence sought, and (5) the possibility of recovering evidence through less intrusive alternative means. These factors must be balanced against the severity of the intrusion. *People v Scott, supra,* 21 C3d at 293.

Intrusive searches that have been approved include: a blood draw after a lawful DUI arrest (*Schmerber v California* (1966) 384 US 757, 770–772, 86 S Ct 1826, 16 L Ed 2d 908); a blood draw after a lawful arrest to compare with blood at a murder scene (*People v Siripongs* (1988) 45 C3d 548, 569, 247 CR 729); and warrantless rectal examination of a prison inmate by a proctologist (*People v West* (1985) 170 CA3d 326, 331–332, 334, 216 CR 195 (suspicion less than probable cause is sufficient)). Warrants for oral (buccal) swabs are routinely granted on probable cause. See Pen C §296.

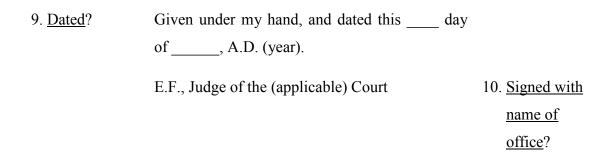
Warrants to retrieve swallowed drug balloons must specify the medical procedure to be followed. *Jauregui v Superior Court* (1989) 179 CA3d 1160, 1164, 225 CR 308. But a warrant may not force a suspect to swallow an emetic to regurgitate drug balloons when there is no medical emergency and the balloons will naturally pass through the suspect's system. *People v Braccamonte* (1975) 15 C3d 394, 401–404, 124 CR 528.

II. SUMMARY OF WARRANT REQUIREMENTS

A. [§2.1] Checklist of Requirements

A searc	h warrant must meet the following statutory and constitutional requirements:
	Affidavit. The warrant must be supported by one or more sufficient affidavits. Pen C §§1526, 1527.
	Magistrate. It must be issued by a magistrate, and state the magistrate's title. Pen C §1528.
	Writing; form. The warrant must be in writing and substantially in the form prescribed by statute. Pen C §§1523, 1529.
	Signature. It must be signed by a magistrate. Pen C §§1523, 1528(a), 1529.
	Peace officer. The warrant must be directed to a peace officer. Pen C §§1523, 1528(a).
	Affiant. It must name the affiant. Pen C §1529.
	Grounds. The warrant must specify the statutory ground(s) on which it is based. Pen C §1529. The permitted grounds are set out in Pen C §§1524(a) and 1524.1.
	Particularity. It must describe the person and place to be searched and the property to be seized with "reasonable particularity." Pen C §1529; US Constamend IV. The same particularity requirement applies to the supporting affidavits. Pen C §1525.
m do	adicial Tip: Particularity is the major requirement after probable cause and erits especially careful attention by issuing magistrates. It is good practice to puble-check that the descriptions in the affidavit(s) match the ones in the arrant.
whether	Service. When an affidavit requests night service, the magistrate must determine there is good cause for it and, if so, must expressly authorize it in the warrant. \$1533; see §3.6
B. [§2.	2] Statutory Form of Warrant
set out	Code §1529 prescribes the form of a search warrant. The statutory requirements are verbatim below, together with questions on the margins that the issuing magistrate e as a checklist.
	County of

1. County filled in?	The people of the State of California to any sheriff, marshal, or police officer in the County of	
3. <u>All affiants</u> named?	Proof, by affidavit, having been this day made before me by (naming every person whose affidavit has been taken), that (stating the grounds of the application), according to Section 1524, or, if the affidavit be not positive, that there is probable cause for believing that	4. <u>Statutory</u> ground(s) stated?
5. Night service?	(stating the ground of the application in the same manner), you are therefore commanded, in the daytime (or any time of the day or night, as the case may be, according to Section 1533), to make search on the person of (or in the house situated,	6. <u>Location</u> <u>adequately</u> <u>described</u> ?
	describing it, or any other place to be searched, with reasonable particularity, as the case may be) for the following property, thing, things, or person: (describing the property, thing, things, or	
7. Property or person adequately described?	person with reasonable particularity); and, in case of a thing or things or personal property, if you find the same or any part thereof, to bring the thing or things or personal property forthwith before me (or this court) at (stating the place).	8. <u>Place of return</u> stated?



C. [§2.3] The "PRICE" Test

Some courts suggest applying the following factors to check the thoroughness of a request for a search warrant quickly:

- Personal knowledge
- Reliability
- Information fresh or stale
- Connected
- Expertise

Personal Knowledge. The affidavit must set forth *the facts* tending to establish the grounds of the application, or the probable cause for believing that they exist. Pen C §1527. Opinions and conclusions alone are insufficient. *E.g.*, "Bill Jackson is a methamphetamine dealer" or "Mary Sullivan has cocaine at 567 North Street" is insufficient without any facts to support these statements.

Reliability. The basic standard for probable cause to issue a search warrant is whether, given all the circumstances set forth in the affidavit, there is *a fair probability* that contraband or evidence of a crime will be found in a particular place. *Illinois v Gates* (1983) 462 US 213, 238, 103 S Ct 2317, 76 L Ed 2d 527. See §1.7 regarding the use of hearsay and informants.

Information Fresh or Stale. The information should be current enough to support the inference that the property to be seized will still be on the premises. Courts have upheld warrants despite delays between evidence of criminal activity and the issuance of a warrant when there is reason to believe that criminal activity is ongoing or that evidence of criminality remains on the premises. *People v Carrington* (2009) 47 C4th 145, 164, 97 CR3d 117. Evaluate the affidavit as a whole; historical information may be corroborated with recent observations. *E.g.*, a controlled drug buy on the premises 21 days ago without evidence of ongoing sales is stale information, while a 12-day-old buy, while on the fringe of staleness, may support a warrant. *People v Hernandez* (1974) 43 CA3d 581,

586, 118 CR 53. Evidence of regular, continuous sales will justify a longer delay between the drug buy and the signed affidavit. *People v Thompson* (1979) 89 CA3d 425, 428–430, 152 CR 495 (16-day delay justified). But an 82-day delay between a completed drug transaction and the issuance of the warrant is too long when the affidavit contains no facts showing that during that time, there were any drug sales at the residence. *People v Hirata* (2009) 175 CA4th 1499, 1504, 96 CR3d 918.

Connected. The items to be seized must be connected to an offense and to the place to be searched. In other words, this double linkage requires the affiant to connect the crime to the suspect and the suspect to the location.

Expertise. The affiant should describe his or her expertise and the basis for knowledge. This is particularly important in areas requiring expertise, such as narcotics.

III. SPECIAL WARRANT PROCEDURES

A. [§3.1] Fax, E-mail, or Computer Server Search Warrants

Penal Code §1526 allows an officer seeking a search warrant to contact a magistrate by telephone and to transmit the search warrant and all supporting documents, including the officer's signed affidavit in support of the warrant, by facsimile, e-mail, or computer server to the magistrate. An officer seeking a judge through a local district attorney command post must have the documents reviewed by a deputy district attorney before contacting a judge. Courts may have different procedures. The following is an example adapted from Alameda County.

During the Telephone Conversation

	<i>Identify speakers</i> . Ask all speakers to identify themselves, and make sure that the identity of each speaker is clear throughout the conversation.	
	<i>Initial applicant statement.</i> The applicant (also called the affiant/officer) should state that an affidavit and search warrant are ready for immediate transmission by fax, e-mail, or computer server.	
	Collect applicant's data. Obtain and make a note of the applicant's telephone number and fax number, e-mail address, or server address.	
	Confirm your data. Confirm that the applicant has your correct fax number, if different from the phone number, e-mail address, or server address.	
	Administer oath. Administer the oath to the applicant over the telephone.	
	Ask how many pages. Inquire how many pages of affidavit, attachments, and warrant will be transmitted, unless this information was provided earlier in the conversation. It is important to make a note of the respective numbers of pages to ensure that all supporting documents are received.	
	<i>Instruct affiant to sign</i> . Instruct the affiant to sign the affidavit after taking the oath. If digital or electronic signature capabilities exist and e-mail or computer server transmission is planned, affiant provides a digital or electronic signature.	
After the Telephone Conversation		
	Start equipment. You and the applicant turn on your fax machines or computers.	
	Documents transmitted. The applicant faxes, e-mails, or transmits via computer server:	
	• The affidavit(s);	
	 All attachments to the affidavit(s); and 	

	• The search warrant.
	Confirm receipt. Confirm receipt and legibility of the correct number of pages of all documents, and that the applicant's signature, digital signature, or electronic signature is genuine.
	Request further transmission. Request:
	• Retransmission of any missing or illegible pages; and
	• In case of e-mail or computer transmission, the affiant's verification of the digital or electronic signature.
	Decide whether to issue. Read the affidavit(s), attachments, and proposed search warrant, and decide whether to issue the warrant.
	<i>Issue warrant</i> . If you decide to issue the warrant you should do the following:
	• Sign the faxed or hard copy of the warrant, or sign in the form of a digital or electronic signature if electronic mail or computer server is used;
	• Note on the warrant the exact date and time at which it was issued; and
	• Write "Original Warrant" on the signed warrant, and indicate on the warrant that the affiant's oath was administered over the telephone. You do not need to print the warrant and supporting papers if received by electronic mail or computer server.
	<i>Transmit warrant</i> . Transmit the signed warrant to the applicant via fax, e-mail, or computer server, and direct the applicant to phone you to acknowledge receipt.
Applio	cant Phones Magistrate Back
	Receipt acknowledged. The applicant telephones you and acknowledges receipt of the warrant.
	Authorize duplicate original. In the same telephone conversation, authorize the applicant to write "duplicate original" on the copy of the warrant that you transmitted. The duplicate original can then be served.
	Return. The applicant must return the "duplicate original," affidavit, and attachments within 10 days of issuance pursuant to Pen C §1534.

B. [§3.2] Telephonically Authorized Search Warrants

As an alternative to written affidavits, Pen C §1526(b)(1) permits sworn oral statements that are subsequently transcribed. For example, the affiant may phone the magistrate, state probable cause, and obtain the magistrate's verbal authorization to sign the latter's name to the warrant under Pen C §1528(b). The resulting warrant is the so-called telephonic (or, more accurately, telephonically authorized) search warrant. The expression "telephonic search warrant" can give rise to the erroneous impression that the warrant itself is oral. All search warrants must be in writing. The only thing different about a telephonic warrant is that the affiant signs the magistrate's name to a duplicate original search warrant.

The statutes do not mention statements by the affiant over the telephone, but have been interpreted to permit them. The procedure is constitutional. No special circumstances need be shown for issuing a telephonic warrant. *People v Peck* (1974) 38 CA3d 993, 999–1000, 113 CR 806.

Note: In some counties (*e.g.*, Los Angeles County), all telephonic search warrants are obtained through a District Attorney Command Post. Under this process, if the deputy DA believes the case is appropriate for a telephonic search warrant after talking with the affiant, the command post investigator sets up a conference call between the affiant, deputy DA, judge, and investigator (who runs the recording equipment).

Courts may have different procedures. The following is an example adapted from various counties.

During the telephone conversation

<i>Record the conversation.</i> The affiant's statement must be recorded. If you, the judge, record the conversation, check that the equipment is switched on and operating. If the affiant is recording the conversation, you should ask whether the recording equipment is turned on.
Avoid unrecorded or unsworn statements. You should discourage unrecorded or unsworn statements by the officer (or prosecutor, if one participates in the conversation) as to what the case is about. Such statements can create confusion in the officer's and your mind regarding what was said on the record for probable cause and what was not.
<i>Identify all speakers</i> . Ask all speakers to identify themselves; you should make sure that throughout the conversation, the identity of each speaker is clear.
Swear affiant. The affiant should be sworn under oath. Pen C §1526(b).
Take affiant's statement. The affiant should make a statement of probable cause. You can ask questions. Pen C §1526(b). You should not hesitate to ask the affiant

	questions if any part of the oral statement is not clear. This is especially useful when the affiant speaks without having a written affidavit or outline.
	Ask affiant to read search warrant. The affiant should read the proposed search warrant out loud. If changes are necessary, the affiant should make them identically both on the original search warrant and the duplicate original.
	Include in judge's statement:
	• That the search warrant must issue as read by the affiant.
	• That probable cause exists to issue the search warrant, if you so find.
	• The date and time of issuance, which you will later have to enter on the original search warrant.
	\bullet That the affiant is authorized to sign your name to the duplicate original search warrant. Pen C $\S1528(b).$
	Instruct officer-affiant:
	• The officer should bring the original and duplicate original search warrant to you. The officer usually does this after service.
	• Unless you personally record the conversation, the officer should be instructed to have the tape promptly transcribed and to deliver the tape and transcription. The transcription of the officer's sworn oral statement constitutes the affidavit. [It appears that a digital recording downloaded to a CD should be sufficient in lieu of a tape.]
After	the Telephone Conversation
	Once the search warrant is received, you should take the following steps (Pen C §§1528(b), 1534(c)):
	• Enter the exact time of issuance on the original search warrant.
	• Check that the officer who served the warrant entered the exact time of execution on the duplicate original.
	• Sign the original search warrant.
	• Give both the original and the duplicate original search warrant to the clerk for filing.
	To ensure proper transcription of the conversation, do the following (Pen C $\S1526(b)(1)$):
	• Check that the transcription and the tape [or CD] are received promptly.

- Compare the transcription with the tape and make any needed corrections in the transcript.
- Certify the tape and transcription.
- Give the tape and transcription to your clerk for filing. These steps should be taken promptly.
- Judicial Tips: (1) Because there is a time gap between the oral statement and the certification of the transcription, some judges write down the essence of the oral statement very soon after it is made. (2) Transcription, certification, and filing should be completed well before the preliminary hearing so that the defendant can exercise his or her statutory right to make a Pen C §1538.5 suppression motion at the hearing without having to waive time.

C. [§3.3] Ramey Arrest Warrants—Before Complaint Filed

An arrest warrant is a court order directing officers to arrest a certain person if and when they locate him or her. Pen C §816. If you are satisfied from the officer's declaration that probable cause exists that the offense described has been committed and that the described defendant committed the offense, you may issue a warrant of probable cause for the defendant's arrest. Pen C §817(a)(1). Such warrants are called *Ramey* warrants. See *People v Ramey* (1976) 16 C3d 263, 270–276, 127 CR 629. In contrast to a conventional arrest warrant (Pen C §§813–815), *Ramey* warrants are issued before a complaint has been filed against the suspect. This may occur, for example, when an officer lacks sufficient evidence to file charges, but hopes to obtain sufficient evidence to file a complaint through questioning, lineups, or other investigatory techniques.

CAUTION: A *Ramey* warrant, however, cannot be used to justify an arrest to obtain probable cause to charge a person. *Goodwin v Superior Court* (2001) 90 CA4th 215, 108 CR2d 553 (cannot compel someone to appear in a lineup before initiating criminal proceedings).

Procedure. The procedure for obtaining a *Ramey* warrant is similar to that for obtaining a search warrant:

- The officer must prepare a probable cause declaration (or PCD) that sets forth the facts on which probable cause is based;
- The officer must complete the warrant that includes the arrestee's name, the court's name, the name of the city or county where the warrant is issued, a direction to peace officers to bring the arrestee before a judge, the signature and title of the signing judge, the time the warrant was issued, and the amount of any bail (Pen C §§815, 815a, 817(e), (f)); and
- The officer must submit the declaration and warrant to you in person or by fax or e-mail (Pen C §817(c)).

Time of Arrest. An arrest for the commission of a felony may be made at any time of the day or night. An arrest for the commission of a misdemeanor is not allowed between 10 p.m. and 6 a.m., except for specific circumstances such as the officer has probable cause to believe that the person to be arrested committed a public offense in the officer's presence, the arrest is made in a public place, the arrestee is already in custody, or good cause has been shown that the warrant may be served at any time. Pen C §§817(a)(2), 836, 837, 840.

John Doe Warrants. If the officer does not know the suspect's name, the officer may obtain a John Doe warrant, but it must contain enough information about the suspect to sufficiently reduce the chances of arresting the wrong person. In other words, there should be sufficient information to permit identification of the suspect with reasonable certainty. See Pen C §815; *People v Montoya* (1967) 255 CA2d 137, 142, 63 CR 73.

John Doe/DNA Warrants. When there is no more particular, accurate, or reliable means of identification available to law enforcement, an arrest warrant that describes the person to be arrested by a fictitious name and his or her unique DNA profile, or incorporating by reference an affidavit containing such a unique DNA profile, satisfies the particularity requirements of the Fourth Amendment, the California Constitution, and Pen C §804(d). *People v Robinson* (2010) 47 C4th 1104, 1137, 104 CR3d 727; US Const amend IV; Cal Const art I, §13.

D. [§3.4] Steagald Search and Arrest Warrants

Enter Third Party's Home. You may issue a warrant authorizing officers to enter the home of a suspect's friend, relative, or other third party to search for and arrest the suspect. Such a warrant is called a *Steagald* search warrant. See *Steagald* v U.S. (1981) 451 US 204, 211–213, 101 S Ct 1642, 68 L Ed 2d 38.

Note: If officers want to enter the suspect's home, they only need a *Ramey* arrest warrant.

Affidavit. The affidavit must demonstrate:

- Probable cause to arrest through (a) an outstanding arrest warrant (if a conventional or *Ramey* warrant is outstanding, the officer may attach it and incorporate it by reference) or (b) a statement of probable cause (by which a *Steagald* warrant becomes both an arrest and search warrant); and
- Probable cause that the suspect is now inside the residence and will be there when the warrant is executed

Alternatives. It may be simpler to (a) arrest the suspect before entering or after leaving the third-party residence or (b) seek an anticipatory search warrant, which is triggered only after the suspect is seen entering the residence (see §3.11).

► Judicial Tip: The search-warrant requirements do not apply to public places, such as a public restaurant. But the following are not considered public places: hotel and motel guest rooms, rented rooms in a boarding house, and business premises not open or visible to the public. The warrant requirements may also apply to motor homes or houseboats in settings indicating their use as homes and not for transportation.

E. [§3.5] Probable Cause for Warrantless Arrest

Circumstances may authorize an arrest without a warrant. See, *e.g.*, Pen C §§836(a) (public offense in officer's presence, felony committed, or probable cause that felony committed), 836(c)–(d) (violation of protective order or probable cause on a domestic violence call to believe assault or battery committed), 25850 (person suspected of carrying a loaded firearm); Veh C §40300.5 (reasonable cause to believe DUI occurred).

An officer, however, must still have probable cause for the arrest. Probable cause for a warrantless arrest exists when the facts known by the officer at the time of arrest would

have led a person of ordinary care and prudence to entertain an honest and strong suspicion that the person arrested was guilty of a crime. *People v Price* (1991) 1 C4th 324, 410, 3 CR2d 106.

A magistrate must make a determination of probable cause to detain within 48 hours of a warrantless arrest. *County of Riverside v McLaughlin* (1991) 500 US 44, 111 S Ct 1661, 114 L Ed 2d 49. The arresting officer prepares and files a probable cause declaration (PCD). On weekends, the on-call duty judge often must review PCDs from local police departments.

F. [§3.6] Night Service

Good Cause. Generally search warrants must be served between the hours of 7 a.m. and 10 p.m. On a showing of good cause, however, you may insert a direction in a search warrant that it may be served at any time of the day or night. Pen C §1533.

When establishing good cause for night service, you must consider the safety of the peace officers serving the search warrant and the safety of the public as a valid basis for nighttime endorsements. Pen C §1533; see, e.g., Tuttle v Superior Court (1981) 120 CA3d 320, 329, 174 CR 576 (facts must be stated from which the magistrate can infer that nighttime service would lessen the possibility of a violent confrontation); People v McCarter (1981) 117 CA3d 894, 907, 173 CR 188 (officers had just received information "that one or more racially motivated, senseless murders had occurred the previous night and that another was contemplated"; public-safety interest in averting more killings justified night service); People v Govea (1965) 235 CA2d 285, 298–299, 45 CR 253 (drug sales on premises at night); People v Morrongiello (1983) 145 CA3d 1, 13, 193 CR 105 (suspect planning on leaving next morning).

Privacy Interests. The fundamental purpose of Pen C §1533 is to guard privacy interests against "the peculiar abrasiveness of official intrusions" at night. *People v Maita* (1984) 157 CA3d 309, 322, 203 CR 685. The legislative purpose behind Pen C §1533 is two-fold:

- To require you to consider and determine whether you should exercise a discretion that authorizes a search peculiarly intrusive on the householder and especially dangerous to the officers; and
- To enable the householder to know, from the face of the papers served, that the intrusion is, in fact, authorized by a magistrate and that it is not the result of a mere whim or police zealousness.

Nunes v Superior Court (1980) 100 CA3d 915, 923, 161 CR 351.

Format. If you authorize night service, you should insert a direction in the search warrant that it may be served at any time of the day or night. Pen C §1533. Many current warrant forms contain a special night service authorization that you initial. See, *e.g.*, *Nunes v Superior Court*, *supra*, 100 CA3d at 921. On other forms, you put an "X" in a box to indicate approval.

G. [§3.7] Order to Seal

You may seal those portions of the affidavit that tend to reveal a confidential informant's identity. *People v Hobbs* (1994) 7 C4th 948, 963, 30 CR2d 651; see Evid C §1041.

► Judicial Tip: You should approach requests for sealing all or major portions of a search warrant affidavit with particular caution. Much of the time the confidentiality of an informant can be adequately protected without taking such a drastic step, thereby avoiding substantial subsequent difficulties.

Grounds. You may issue a sealing order to:

- Protect a confidential informant (*People v Hobbs, supra,* 7 C4th at 963, 974); or
- Conceal official information obtained in confidence by officers that would be against the public interest to disclose, *e.g.*, the location of a surveillance site (see Evid C §1040).

It is good practice to include a note in the warrant indicating that it is based solely or in part on a sealed affidavit. *People v Sanchez* (1972) 24 CA3d 664, 678 n8, 101 CR 193. Sealed documents should be kept by the court. *People v Martinez* (2005) 132 CA4th 233, 240, 33 CR3d 328.

If the entire affidavit is sealed, you should instruct the officer that after the warrant is served, he or she should file the affidavit with the clerk's office in a sealed envelope along with the order for sealing. If only a portion of the affidavit is sealed, the officer should file the affidavit in a sealed envelope along with the order for sealing, but should also file a copy in which those portions ordered sealed are redacted. (In some counties, the court keeps the original affidavit and releases a copy to the officer, who has the original warrant.)

H. [§3.8] Noncompliance with Knock-Notice Requirements

Before entering a house to serve a search warrant, police officers must usually give notice of their authority and purpose and be refused admission before using force to enter the premises. Pen C §1531. This is often referred to as the knock-notice rule. A substantially identical rule applies to arrest warrants. Pen C §844.

In some states, officers may seek no-knock authorization if the affidavit demonstrates a reasonable suspicion that knock-notice would be dangerous or futile, would result in the destruction of evidence, or would otherwise compromise the investigation. *Richards v Wisconsin* (1997) 520 US 385, 394, 395–396 n7, 117 S Ct 1416, 137 L Ed 2d 615. In California, noncompliance with section 1531 cannot be judicially authorized in advance of the service of the search warrant. A peace officer must wait until the execution of the warrant and determine whether the facts as they exist at that time justify noncompliance with section 1531. *Parsley v Superior Court* (1973) 9 C3d 934, 939–940, 109 CR 563. California cases adopt an exigent circumstances exception to the knock-notice rule on the same grounds expressed in *Richards. People v Dumas* (1973) 9 C3d 871, 877, 109 CR 304.

► Judicial Tip: Whether not knocking is warranted depends on the circumstances at the time of service. Judges should be reluctant to give preapproval to not knocking. Even if there is noncompliance with knock-notice rules, the US Supreme Court in *Hudson v Michigan* (2006) 547 US 586, 594, 599, 126 S Ct 2159, 165 L Ed2d 56, eliminated the sanction of suppression of evidence seized pursuant to a valid search warrant that was executed without compliance.

I. [§3.9] Premises Secured Pending Warrant

Pending a warrant application, the police may prohibit entry into a residence when they have a reasonable suspicion that contraband or evidence is inside. *People v Bennett* (1998) 17 C4th 373, 387–388, 70 CR2d 850. The police may enter a residence on probable cause to search, coupled with exigent circumstances such as specific facts that someone inside will destroy evidence (*People v Gentry* (1992) 7 CA4th 1255, 1262–1264, 9 CR2d 742), or probable cause that someone inside is a present danger to the officers (*People v Celis* (2004) 33 C4th 667, 678–680, 16 CR3d 85). You may issue a warrant for such a secured premises if the affidavit establishes preexisting probable cause to search and the exigent circumstances show the need to enter and insufficient time to obtain a warrant. *People v Camilleri* (1990) 220 CA3d 1199, 1208–1210, 269 CR 862.

A warrantless entry to prevent the destruction of evidence is allowed when the police do not create the exigency through an actual or threatened Fourth Amendment violation. *Kentucky v King* (2011) US , 131 S Ct 1849, 1857–1858, 179 L Ed 2d 865.

Emergency aid exception. Police may enter a home without a warrant when they have an objectively reasonable basis for believing that an occupant is seriously injured or imminently threatened with such injury. The need to protect or preserve life or avoid serious injury is justification for what would be otherwise illegal absent an exigency or emergency. The "emergency aid exception" to the warrant requirement does not depend on the officers' subjective intent or the seriousness of any crime they are investigating when the emergency arises. Rather, the exception requires only an objectively reasonable basis for believing that a person within the house is in need of immediate aid. *People v Troyer* (2011) 51 C4th 599, 605, 612, 120 CR3d 770 (the same facts that justified entry into the residence justified a search of places where a victim could be, which included the locked, upstairs bedroom).

J. [§3.10] Warrantless Search of Property Immediately Associated With Defendant

A warrantless search of a cell phone that was immediately associated with the person arrested is valid, whether or not an exigency existed. For example, a cell phone is immediately associated with the person arrested if it was on the defendant's person at the time of arrest and during the administrative processing at the police station approximately 90 minutes later. *People v Diaz* (2011) 51 C4th 84, 93, 119 CR3d 105; see also *U.S. v Edwards* (1974) 415 US 800, 802–803, 94 S Ct 1234, 39 L Ed 2d 771 (warrantless search of clothing taken from the defendant after arrest); *U.S. v Robinson* (1973) 414 US 218, 236, 94 S Ct 467, 38 L Ed 2d 427 (warrantless search of cigarette package taken from the defendant's coat pocket after arrest).

However, warrantless searches of luggage or other property seized during an arrest that was merely in the area of the defendants' immediate control cannot be justified as incident to the arrest if the search is remote in time or place and no other exigency exists. Once law enforcement officers reduce luggage or other personal property not immediately associated with the person of the arrestee to their exclusive control, and there is no longer any danger that the arrestee might gain access to the property to seize a weapon or destroy evidence, a search of that property is no longer an incident of the arrest. *U.S. v Chadwick* (1977) 433 US 1, 14–16, 97 S Ct 2476, 53 L Ed 2d 538 (warrantless search of a footlocker conducted more than an hour after federal agents had gained exclusive control of it and long after the defendants were securely in custody was not incidental to the arrest or justified by any other exigency). See also Sample Forms, Search Warrant for Cell Phone in Police Custody.

When a driver who is not under arrest uses a mobile electronic device to provide evidence of financial responsibility, the peace officer may only view the evidence of financial responsibility and may not view other content on the device. Veh C §16028(g).

K. [§3.11] Anticipatory Search Warrants for Triggering Events

Triggering Event. You may issue an anticipatory or contingent search warrant when there is probable cause to believe that the listed evidence will be at the place to be searched when a triggering event occurs. The warrant authorizes a search if and when the triggering event occurs. *U.S. v Grubbs* (2006) 547 US 90, 94, 126 S Ct 1494, 164 L Ed 2d 195.

Affidavit. The affidavit for an anticipatory warrant must:

- Describe the triggering event with reasonable specificity (*People v Sousa* (1993) 18 CA4th 549, 561, 22 CR2d 264); such warrants are commonly used, for example, when there will be a controlled delivery of drugs or other contraband by the police to the premises;
- Demonstrate probable cause that the triggering event will occur (*U.S. v Grubbs*, *supra*, 547 US at 96); and
- Show that probable cause to search the premises will automatically exist when the triggering event occurs.

L. [§3.12] Covert Search Warrants

A covert search warrant authorizes officers to enter a premise when nobody is present, to search for specific evidence and possibly photograph or videotape it, and to leave without taking anything or giving notice that a search occurred. There is no California law upholding the use of covert search warrants; you should exercise extreme caution when considering use of such warrants

Officers who execute a search warrant must leave a receipt for any property taken. Pen C §1535. Some federal courts have ruled that officers who execute covert search warrants can effectively seize intangible property (such as visual images and information that

evidence exists). *U.S.* v *Freitas* (9th Cir 1986) 800 F2d 1451, 1455. Such courts recommend delaying notice that the search occurred for up to seven days. More recent federal law permits up to 30 days' delayed notice. 18 USC §3103a(b)(3) (as amended by USA PATRIOT Act; Fed Crim Rule 41(f)(3)).

Federal law suggests the following procedure [see Freitas, supra, 800 F2d at 1456]:

- The probable cause affidavit must show that a covert search is peculiarly necessary; and
- Special instructions must authorize a covert search and excuse compliance with notice requirements until a specified date.

M. [§3.13] Special Master Procedure for Searching Professional's Office

The supporting affidavit must state when a search warrant is for the office or business premises of a lawyer, doctor, psychotherapist, or member of the clergy. Pen C §1525. Warrants for documentary evidence in the possession of such professionals who are not suspected of criminal activity are subject to special requirements set out in Pen C §1524(c)–(f). These requirements are sometimes called the special master procedure. See, e.g., Pen C §1543(a).

Basically a special master accompanies the person serving the warrant and follows the statutory procedures. Such warrants must be served, whenever practicable, during normal business hours. Pen C §1524(c)(3). A special master is usually an attorney who serves without compensation. Pen C §1524(d). The State Bar maintains a list of special masters grouped by district for use by courts. See Pen C §1524(d)(1).

IV. HANDLING WARRANT AND RETURN OF SERVICE

A. [§4.1] General Requirements

The original warrant and affidavit, including any sealed portion, become a court document when presented to you. Immediately on receiving the signed affidavit and a copy of the signed warrant, you must take affirmative steps to secure and file them. If the documents are signed after normal working hours, you should keep the documents confidential and secure until the next court day and then immediately transfer them to the designated manager in the Criminal Division Clerk's Office.

A search warrant generally must be executed and returned within 10 days of issuance. Pen C §1534(a). After execution, the officer must immediately return the warrant to you, along with a written, verified inventory of the property taken. Pen C §1537. If returned in person to you, you may review the inventory, swear the officer to the verification, and sign yourself attesting that the officer was sworn. Pen C §1537. In practice this usually means that the officer returns the affidavit and inventory to the clerk's office. After execution and return, the documents and records relating to the warrant are open to the public, unless otherwise sealed. Pen C §1534(a). The person from whom the property was seized is entitled to a copy of the inventory on request. Pen C §1538.

A sealed affidavit should ordinarily be part of the court record maintained in the clerk's office. A sealed affidavit may only be maintained by law enforcement if court security procedures are inadequate to protect against disclosure and a specific showing is made. *People v Galland* (2008) 45 C4th 354, 368, 86 CR3d 841.

B. [§4.2] Tracking Device Search Warrant

Generally, a tracking device, such as GPS, is a satellite-based technology that discloses the location of a given object. As used in Pen C §1534, the term means any electronic or mechanical device that permits the tracking of the movement of a person or object. Pen C §1534(b)(6). This technology is used in automobiles and cell phones to provide individual drivers with directional assistance. State and federal law enforcement use various forms of GPS technology to obtain evidence in criminal investigations. Assembly Comm on Public Safety (May 29, 2012) AB 2055, p 4.

A tracking device search warrant (Pen C §1524(a)(12); see §1.3) must identify the person or property to be tracked and specify a reasonable length of time, not to exceed 30 days from the date the warrant is issued, that the device may be used. You may, for good cause, grant one or more extensions for the time that the device may be used, with each extension lasting for a reasonable length of time, not to exceed 30 days. Pen C §1534(b)(1).

The search warrant must command the officer to execute the warrant by installing a tracking device or serving a warrant on a third-party possessor of the tracking data. The officer must perform any installation authorized by the warrant during the daytime unless you, for good cause, expressly authorize installation at another time. Pen C §1534(b)(1).

The term "daytime" means the hours between 6 a.m. and 10 p.m. according to local time. Pen C §1534(b)(7).

The warrant must be executed no later than 10 days immediately after the date of issuance. A warrant executed within this 10-day period is deemed to have been timely executed and no further showing of timeliness need be made. After the expiration of 10 days, the warrant is void, unless it has been executed. Pen C §1534(b)(1).

Additional requirements apply to a tracking device search warrant (Pen C §1534(b)(2)–(5)):

- An officer executing the warrant is not required to knock and announce his or her presence before executing the warrant.
- The officer executing the warrant must file a return to the warrant no later than 10 calendar days after the use of the tracking device has ended.
- No later than 10 calendar days after the use of the tracking device has ended, the officer who executed the warrant must serve a copy of it on the person who was tracked or whose property was tracked. On the request of a government agency, you may, for good cause, delay service of a copy of the warrant.
- An officer installing a device authorized by a tracking device search warrant may install and use the device only within California.
- **Judicial Tip:** Penal Code §1534(b) applies a uniform statewide standard for the use of electronic tracking devices requiring law enforcement to prepare a warrant that requires judicial review and approval before the devices can be used. Section 1534(b) is modeled on the Federal Rules of Criminal Procedure rule 41(e)(2)(C). Assembly Comm on Public Safety (May 29, 2012) AB 2055, pp 3, 5.

Courts have distinguished tracking a user's cell phone location without a warrant using GPS technology from putting a GPS tracking device on a motorist's vehicle without a warrant. *US v Skinner* (Tenn App 2012) 690 F3d 772, 781; see *US v Jones* (2012) __ US __, 132 S Ct 945, 949, 181 L Ed 2d 911 (involved physical invasion by placement of tracking device). There is no Fourth Amendment violation because the defendant did not have a reasonable expectation of privacy in the data given off by his voluntarily procured pay-as-you-go cell phone. *US v Skinner*, *supra*, 690 F3d at 777.

C. [§4.3] No Liability for Providing Location Information

Penal Code §1524 may not be construed to create a cause of action against any foreign or California corporation, its officers, employees, agents, or other specified persons for providing location information. Pen C §1524(k).

V. EMERGENCY PROTECTIVE ORDERS

A. [§5.1] Overview of Family Code EPOs

An Emergency Protective Order (EPO) is an order requested by a peace officer, sheriff's officer, or parole or probation officer. Fam C §§6215, 6240. A judge, commissioner, or referee must be available 24 hours a day/7 days a week to issue EPOs orally, by telephone, or otherwise. See Fam C §6241. An EPO is valid only if it is issued by a judicial officer. Fam C §6250.3. The procedures for contacting a judicial officer vary from county to county. A peace officer usually contacts you by phone, fills out the EPO (form EPO-001), and signs it. See Fam C §§6250, 6270.

An EPO expires 5 judicial business days after its issuance or 7 calendar days maximum after its issuance if a weekend or holiday falls within that time period. The count starts the day following the issuance of the EPO. Fam C §6256. The order is enforceable anywhere in California. Fam C §6381(a).

B. [§5.2] Grounds

You may issue an ex parte EPO when an officer asserts reasonable grounds to believe any of the following:

- A person is in immediate and present danger of **domestic violence** based on the person's allegation of recent abuse or threat of abuse. Fam C §6250(a). Domestic violence is abuse perpetrated against any of the following persons (Fam C §6211):
 - o Spouse or former spouse.
 - o Cohabitant or former cohabitant.
 - o A person with whom the respondent has or has had a dating or engagement relationship.
 - o Child of the party, or child subject to a paternity action.
 - Any other person related by consanguinity or affinity in the second degree (related by blood or marriage, *e.g.*, grandparent, grandchild, brother/sister, parent, in-law).
- A child is in immediate and present danger of abuse by a family or household member based on an allegation of recent abuse or threat of abuse. Fam C §6250(b).
- A child is in immediate and present danger of abduction by a parent or relative based on an allegation of recent attempt to abduct or flee the jurisdiction or a threat to abduct or flee. Fam C §6250(c).
- An elder or dependent adult is in immediate and present danger of abuse based on an allegation of recent abuse or threat of abuse. (An EPO may not be issued solely on allegations of financial abuse. Fam C §6250(d).)
- A person is in immediate and present danger of stalking based on the person's allegation that he or she has been willfully, maliciously, and repeatedly followed

or harassed by another person. It must be a credible threat made with the intent to place the person who is the target of the threat in reasonable fear for his or her safety or the safety of their immediate family. Fam C §6274; Pen C §646.91.

Abuse as used here means (Fam C §6203):

- Intentionally or recklessly causing or attempting to cause bodily injury;
- Sexually assaulting;
- Placing a person in reasonable apprehension of serious bodily injury to that person or to another; or
- Engaging in any behavior that has been or could be enjoined under Fam C §6320 (including molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, destroying personal property, contacting by mail or otherwise, coming within a specified distance of, or disturbing the peace of another party or, on a showing of good cause, a family or household member).

A *cohabitant* is a person who regularly resides in the household. Fam C §6209. For example, sublessees of different units of a house, who shared some common areas of the house, but who had no romantic or friendly relationship and who were not even previously acquainted, were not "cohabitants" within the meaning of Fam C §6209; *O'Kane v Irvine* (1996) 47 CA4th 207, 209, 212, 54 CR2d 549.

A *dating relationship* means frequent, intimate associations characterized by the expectation of affection or sexual involvement independent of financial considerations. Fam C §6210.

C. [§5.3] Standard of Proof

The standard of proof for an EPO is that reasonable grounds have been asserted that (Fam C §6251; Pen C §646.91):

- There is immediate and present danger of abuse, abduction, or stalking (whether the respondent is in custody has no bearing on this factor; you do not know when the respondent will be released); and
- The EPO is necessary to prevent the occurrence or recurrence of abuse, abduction, or stalking.
- **► Judicial Tip**: The opinion of the requesting officer is most important in making your determination, *not* whether the victim is requesting an EPO. See Fam C §6250; Pen C §646.91(a).

D. [§5.4] Available Orders

An EPO may include any of the following (Fam C §6252):

- Personal conduct restraints, residence exclusion, and stay away orders. For a
 definition of protective order, see Fam C §6218. Fam C §6252(a). Stay away
 orders may be expanded to include such locations as school, work, and daycare.
- Temporary care and control of a minor child of the parties. Fam C §6252(b).
- Temporary care and control of an endangered child or other children in the household including protections found in Welf & I C §213.5. Fam C §6252(c).
- Temporary care and control of a minor child in danger of abduction. Fam C §6252(d).
- Elder and dependent adult protective orders under Welf & I C §15657.03. Fam C §6252(e).
- An EPO issued for stalking may also include civil harassment order protections (CCP §527.6) and/or workplace violence protections (CCP §527.8).

No firearms. The respondent cannot own, possess, purchase, or receive any firearms during the term of the protective order. A violation of this prohibition is a misdemeanor punishable by a maximum of one year in jail or a \$1000 fine or both. Pen C §29825.

Protected address and location. Any party enjoined by an EPO is prohibited from taking any action to obtain the address or location of a protected party or a protected party's family members, caretaker, or guardian unless there is good cause not to make that order. Fam C §6252.5(a); Pen C §646.91A(a).

See Judicial Council form EPO-001, and the EPO Quick Reference Guide, in the Sample Forms below.

E. [§5.5] Processing EPO

As soon as practicable, the requesting officer needs to deliver a copy of the EPO to the issuing court. Fam C §6271(c).

The Department of Justice maintains a California Restraining and Protective Orders System (CARPOS), formerly known as the Domestic Violence Restraining Order System, that contains information regarding protective and restraining orders and injunctions. Fam C §6380(e). Each county must have a procedure for transmitting protective orders into CARPOS through CLETS (California Law Enforcement Telecommunications System). The data is transmitted by law enforcement or, with permission of the Department of Justice, court personnel. Fam C §6380(a).

If an officer serves the protective order, the officer has one business day to get the proof of service information directly into CARPOS. Fam C §6380(d)(1). If court personnel receive a proof of service from anyone other than law enforcement, the court clerk has one business day to get the service information into CARPOS through CLETS, including the name of the person who served the order. If the court is unable to provide the notification through CLETS, then the court has one business day to transmit the proof of

service to a law enforcement agency that then has one business day to enter the information into CARPOS. Fam C §6380(d)(2).

New protective order registry. Launched in June 2010, the California Courts Protective Order Registry (CCPOR) is a statewide repository of protective orders containing both data and scanned images of orders that can be accessed by judges, court staff, and law enforcement officers. Currently used by superior courts in 22 counties, CCPOR allows judges to view orders issued by other court divisions and across county lines. Armed with more complete data, judges can make more informed decisions and avoid issuing multiple protective orders with conflicting terms and conditions. Law enforcement officers also benefit from the ability to view complete images of orders, including notes, special conditions, and warnings that are often handwritten by judges on the orders.

SAMPLE FORMS

The following sample search and arrest warrants are reprinted from the District Attorney of Alameda County's Web site and are intended for illustrative purposes only for use by on-call bench officers. The sample Statement of Probable Cause is adapted from training materials used in *An Introduction to Search Warrants* by Judge Robert J. Schuit, Superior Court of Los Angeles County. The Checklist for Handling Search Warrants has been shared by Justice Kathleen Banke, First District Court of Appeal, formerly Judge of the Superior Court of Alameda County.

Search Warrant and Affidavit

Statement of Probable Cause

Search Warrant—Special Instructions

Search Warrant Affidavit—Request for Special Instructions

Search Warrant for Financial Records

Search Warrant for Electronic Communication Records

Search Warrant for Cell Phone in Police Custody

Arrest Warrant—Probable Cause (Ramey Warrant)

Search and Arrest Warrant (Steagald Warrant)

Search Warrant—Sealing Order

Sample Form—Vehicle Tracking

Checklist for Handling Search Warrants

EPO-001

EPO Quick Reference Guide

SUPERIOR COURT OF CALIFORNIA County of _____



SEARCH WARRANT

THE PEOPLE OF THE STATE		Warrant No.
-	County	
you are ordered to execute as follows	•	pable cause for this search warrant which
	ibed in Exhibit 1A, attached hereto and	1
_ ·	ed in Exhibit 1B, attached hereto and in	-
	lge] For good cause, night service is aut	
	roperty seized pursuant to this search ware er pursuant to Penal Code §§ 1528(a), 1	
Date and time warrant issued	Judge of the Super	rior Court
	• AFFIDAVIT	`
Affiant's name and agency:		
		atement of Probable Cause which is e Exhibit 1A, describing the place(s) to be
Evidence type: (Penal Code § 1524). ☐ Stolen or embezzled property.		
☐ Property or things used as a mea	ns of committing a felony.	
		e it as a means of committing a public livered it for the purpose of concealing it
☐ Property or things that are evided particular person has committee	ence that tends to show a felony has been a felony.	n committed, or tends to show that a
	atter depicting sexual conduct of a pers	exploitation of a child, in violation of Pena on under the age of 18 years, in violation o
□ Night Service: [If checked] Auth Statement of Probable Cause, filed he	orization for night service is requested berewith.	pased on information contained in the
Declaration: I declare under penaltaffidavit, including all incorporated of		my personal knowledge contained in this
Date	Affiant	

STATEMENT OF PROBABLE CAUSE By Officer Robert Barton

-		
	Officer's training and experience	
assigned 1	is Detective Robert Barton. I am a Police Detective for Eto the burglary section of the Bay City Detective Bureau. 4 and have been so assigned since 2000.	
Advanced Course, a	eeived training in burglary investigations in the Bay City of Office Training School, the East Bay Community Colle and the John Wayne Institute of Criminal Investigation. I learn from burglary detectives with more experience than my	ge Criminal Investigation nave spoken with and obtained
burglary.	rticipated in over 200 burglary investigations. I have arrest I have interviewed those arrestees and have gained informethod of operation.	-
	How officer got involved in the investigation	
On 4/18/2	2009, I was assigned to investigate a burglary that occurre	ed on 4/15/2009.
	Officer establishes that a crime was committed	
Joseph Va he returne	lary report, Report # 09–12345, is attached as Addendum asco stated that he locked and secured his residence on 4/ed on 4/15/2009 at 0800 hours, he observed that his back I been ransacked, and property was missing.	14/2009 at 1800 hours. When
	Officer links evidence to the crime	
	erty that was taken included a Sony HD TV and a diamon	
list of sto	len property and descriptions is listed in the attached burg	giary report.

I conducted a follow-up investigation, which is documented in Supplemental Report 09–23456, attached as Addendum # 2 and summarized as follows: I lifted latent fingerprints from the crime scene and sent them to the Bay City Fingerprint ID System. Print technician Jose Romo, serial # 34567, reported a positive match and identification of Clark Cato, CII # A1234567. The victim stated that he did not know anyone by that name. CII records indicate that Cato has prior arrests and convictions for burglary and receiving stolen property.

Officer links the suspect to the crime and evidence

	Officer links suspect to the search locat	ion	
Bay City. I a possible conducted subscriber	Cato's prior arrest reports and four have checked Bay City Field Interburglary suspect on 2/12/2009 and a utility bill check and found that a for telephone, gas, power and waterds indicate that Cato has a Californ, Bay City.	rview Cards and found listed his residence as as of 4/1/2009, Clark C er utilities at 6373 Ord	that Cato was interviewed as 6373 Ordway St., Bay City. I cato was listed as the way St., Bay City. California
	Officer's opinion that evidence will be f	ound at the location	
the burglar of the stole	ny training and experience and the y of the Vasco residence was com en property will be found at Cato's retain fruits of their crimes at thei	mitted by Clark Cato. I residence and/or on hi	also believe that all or part
Date	Affiant		

SUPERIOR COURT OF CALIFORNIA County of _____



SEARCH WARRANT• Special Instructions •

THE PEUPLE OF THE STATE OF CALIF	
Any peace officer in	County
The affidavit filed herewith by	, sworn to and use for this warrant which you are ordered to execute as follows:
	it 1A, <i>attached</i> hereto and incorporated by reference.
	1B, attached hereto and incorporated by reference.
Disposition of property: All property seized custody pending further court order pursuant to	l pursuant to this search warrant shall be retained in the affiant's o Penal Code §§ 1528(a), 1536.
◆ SPECIAL	INSTRUCTIONS *
The Statement of Probable Cause, filed herewith, h procedures which are authorized if checked:	has demonstrated legal justification for the following special
\square Night Service: This warrant may be served at a	any hour of the day or night.
□ No Knock Authorization: Compliance with I negates the need for non-compliance.	Penal Code § 1531 is excused <i>unless</i> a change in circumstances
☐ Special Master: The search shall be conducted The Special Master shall be	d by a Special Master pursuant to Penal Code §§ 1524(c)-(g).
Superior Court pending further court order: \Box A	l be sealed and delivered into the custody of the Clerk of the All documents filed herewith. □ Documents listed in Exhibit 2. Evid. Code § 1041) □ Official information (Evid. Code § 1040)
	on served with this warrant, including its employees and agents, content, existence, or execution pending further court order.
	ode § 1524.1): A blood sample shall be drawn from the person onnel in accordance with accepted medical practices.
of the triggering event(s) described in Exhibit 3,	hat probable cause for this search will exist upon the occurrence, and that there is probable cause said triggering event(s) will after said triggering event(s) occur. Exhibit 3 is <i>attached</i> hereto
shall be prepared showing the location of all such photographed or videotaped to show its location Penal Code § 1535 is excused until this court. [Initial compliance date must not be two days after executing this warrant, the follow	ch property discovered on the premises. Said property shall be a when discovered. Compliance with the receipt requirements of unless an extension is granted by more than 7 days following execution of the warrant.] Within wing shall be filed with this court: (1) the inventory, and (2) the otape recordings made during the execution of this warrant.
	ions pertaining to this search warrant are contained in Exhibit 4
Date and time warrant issued	Judge of the Superior Court

County of _____

SEARCH WARRANT AFFIDAVIT ♦ Request for Special Instructions **♦**

Affiant's	name	and	agency:
minant 8	Hanc	anu	asciic v .

Date

Affiant's name and agency:
Incorporation: The facts in support of this warrant are contained in the Statement of Probable Cause which is incorporated by reference. Incorporated by reference and <i>attached</i> hereto are Exhibit 1A, describing the place(s) to be searched; and Exhibit 1B, describing the evidence to be seized.
Declaration: I declare under penalty of perjury that the information presented herein within my personal knowledge, including information in any attachments, is true.
 Evidence type: (Penal Code § 1524) □ Stolen or embezzled property. □ Property or things used as a means of committing a felony. □ Property or things in the possession of any person with the intent to use it as a means of committing a public offense, or in the possession of another to whom he or she may have delivered it for the purpose of concealing it or preventing its being discovered. □ Property or things that are evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony. □ Property or things consisting of evidence that tends to show that sexual exploitation of a child, in violation of Pena Code § 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of Penal Code § 311.11 has occurred or is occurring.
Special request(s): Based on the facts contained in the Statement of Probable Cause, the following is requested:
□ Night service: Authorization to execute the warrant at any hour of the day or night.
□ No-knock entry: Authorization to enter the premises without compliance with Penal Code § 1531 on grounds that compliance would be dangerous, futile, result in destruction of evidence, or otherwise inhibit this investigation.
☐ Special master: Appointment of a Special Master pursuant to Penal Code §1524(c).
□ Sealing order: Sealing of: □ Entire affidavit □ Only the documents described in Exhibit 2, filed herewith. Sealing is requested for the following reasons: □ Protect informant: To protect the identity of the person designated as X who is a confidential informant as defined in Evid. Code § 1041. The sealed information would disclose or tend to disclose X's identity. Disclosure would endanger X's life and end X's ability to assist in this case and other investigations. □ Official information: To prevent disclosure of "official information" as defined in Evid. Code § 1040. This warrant pertains to an ongoing investigation which would be impeded as follows if the sealed information were released: Alert perpetrator(s) of the progress and focus of this investigation, result in destruction of evidence.
 □ Nondisclosure order (financial institution): An order prohibiting the disclosure of the existence of this warrant for customer records of a financial institution on grounds that disclosure would impede an ongoing criminal investigation by alerting the customer to the progress and focus of the investigation. Gov. Code § 7475. □ Blood draw: Not for HIV testing per Penal Code § 1524.1: Authorization to obtain a blood sample from the person described in Exhibit 1A by trained medical personnel in accordance with accepted medical practices.
□ Anticipatory warrant: An order authorizing execution of this warrant upon the occurrence of the triggering event(s) described in Exhibit 3 based on a determination that, (1) probable cause will exist when the event(s) occurs, and (2) there is probable cause to believe the event(s) will occur. Exhibit 3 is <i>attached</i> hereto and incorporated by reference.
☐ Covert warrant: Authorization to conduct a covert search.
□ Other special requests: Additional special instructions as contained in Exhibit 4, <i>attached</i> hereto and incorporated by reference.

Affiant

County of _____

SEARCH WARRANT

Financial Records of Customer Gov. Code §§ 7460 *et seq.*



THE PEOPLE OF THE STATE (to any peace officer in		Warrant No
Order : The affidavit below, sworn t search warrant which you are ordere		nis date, has established probable cause for this
Financial institution: Name and	address of institution to be search	rhed:
Customer: Identification of cust	omer whose records are to be sei	zed:
Records : The record(s) to be seize	zed arscribed in Exhibit A , a	ttached hereto and incorporated by reference.
Nondisclosure Order: Pending furt disclose to the customer any information		s and agents of the financial institution shall not itent, existence, or execution.
Records disposition: Pending furthe	er court order, the affiant shall ref	tain custody of seized records. Pen. Code § 1536
designated employee causes the liste	ed records to be delivered to the a	ecuted if the custodian of records or other affiant within ten days of service.
Time extension : □ None □ Co.	mpliance date is extended to:	
Date and time issued	<u></u>	udge of the Superior Court
	♦ AFFIDAVIT	•
Affiant's name and agency:		
Statement of Probable Cause: The which is herewith and incorpor		are contained in the Statement of Probable Cause
	end to show, (1) that a felony has	been committed, or (2) that a particular person l
that it has been served with this warr believe there is probable cause that s	rant unless ordered to withhold no such notification would impede the request an order directing the ins	ial institution is permitted to notify the customer otification. Based on my training and experience his criminal investigation by alerting the custom stitution not to disclose to any person any ding further court order.
number and nature of the records to	be seized, the listed records cann	al] of [name of institution] that, because of the not reasonably be produced within the ten days extending the compliance date to [date records as
Declaration : I declare under penalty of including all incorporated		within my personal knowledge contained in this
Date		Affiant

County of _____

SEARCH WARRANT

Electronic Communication Records
Phone • E-Mail • Internet

THE PEOPLE OF THE STATE OF CAI	IEODNIA		The Great Seal
to any peace officer in		Warr	ant No
An affidavit, sworn to and subscribed before are ordered to execute as follows:	e me on this da	te, has established probable cause	for this search warrant which you
PLACE TO BE SEARCHED: [Insert name Re customer: [Insert available information Type of service provided: □ Telephone	on; e.g. name, a	address, phone number, e-mail add	
RECORDS TO BE SEIZED [if checked] Specific records			
☐ Subscriber's name and address		☐ Types of services utilized	
☐ Telephone number, e-mail address		_	start date
☐ Means and source of payment, inc	luding credit ca	ard and bank account numbers	
Connection records			
Telephone ☐ Local and long distance conne	ction records fr	rom	to
☐ Locations, dates, and times of	cell tower conta	acts from	to
☐ Last outgoing phone number			
E-mail and Internet			
		er contacted, session times, and du	ration of sessions
from	to		
Other records:			
COMPLIANCE DATE : Provider shall fur	nish the listed r	records to the affiant on or before	.
FINDINGS			
(1) Provider is a California corporation of communication service as defined in			
(2) Pursuant to 18 USC §§ 2703(c)(1)(B court is authorized to issue this search			showing of probable cause this
(3) The affidavit filed herewith, which we believe the records listed below are in ☐ Tend to show a felony has been ☐ Tend to show that sexual exploit conduct of a person under the age	n the possession committed or to ation of a child	on of Provider and that they [checled end to show that a particular personant to show that they is a shown that	one or both] on has committed a felony. ion of matter depicting sexual
SEALING ORDER: Pending further order	of this court, tl	his search warrant and all accomp	anying documents shall not become
a public record and shall be sealed and delive Grounds for sealing : □ Informant prof			
NON-DISCLOSURE ORDER : Provider s search warrant pending further order of this		Subscriber or any other person of	the existence or content of this
COMPENSATION : Affiant's agency shall	compensate Pr	rovider for reasonable expenses in	complying with this order.
Date		Judge of the Superior Court	

18 USC § 2703(c)(1)(A) and Penal Code § 1524.3(a)

County of _____

SEARCH WARRANT

Cell Phone in Police Custody



THE PEOPLE OF THE STATE OF CALIFORNIA	The Great Seal
to any peace officer in County	
An affidavit, which was sworn to and subscribed before	fore me on this date, has established probable cause for the following
☐ Tends to prove that a felony was committed☐ Tends to prove that a particular person com	nmitted a felony a child, or possession of matter depicting sexual conduct of a person
(2) Location of evidence: The evidence describe	ed below is presently stored in the cell phone identified below.
	lentified below for the evidence described below. If evidence is found cial evidence storage facility pending further court order.
CELL PHONE TO BE SEARCHED	
Description of phone [describe]:	
Location of phone : [e.g., In the prisoners' property re	
Report number : The phone has been booked under the	the following arrest or crime report number:
EVIDENCE TO BE SEIZED [if checked]	
☐ Address book and other contact information, as	s follows [describe]:
☐ Stored email messages, as follows [describe]:	
☐ Stored text messages, as follows:	
☐ Received from	during the following dates:
	during the following dates:
☐ Containing the following subject matter [de	escribe]:
☐ Other [describe]:	
☐ Phone numbers of outgoing calls	
☐ Phone numbers of incoming calls	
☐ Photographs and other graphics, as follows [de	escribe]:
☐ Indicia of person(s) having control the cell pho	one
☐ Other stored information [describe]:	
■ SEALING ORDER : Pending further order of this co become a public record and shall be sealed and delive Grounds for sealing: ■ Informant protection (Fig. 1)	
Date	Judge of the Superior Court

County of _____

ARREST WARRANT

Probable Cause Arrest Warrant Ramey Warrant

[Penal Code § 817]



THE PEOPLE OF THE STATE OF CALIFORNIA

To any California peace officer

W	arrant	No		

Arrestee's name: [Insert name here], hereinafter "Arrestee"

Declarant's name and agency: [Insert declarant's name and agency here], hereinafter "Declarant"

d there cute this 48.

is probable car	use to believe	that Arrestee cor	nmitted the crim	e(s) listed below. You	on this date by Declarant, I fin u are therefore ordered to exec Code §§ 821, 825, 826, and 84
Crime(s):	[List crime(s)]	1			
371 3		57.0 1 1 17			
Night service		-			
•	•	•	•	ur of the day or night	
		•	ervice having been at any hour of the		supporting declaration, this
Bail : □ \$		□ No b	ail		
		-			
Date a	and time warra	ant issued		Judge of the Superior	r Court
	=				
			Arrestee In	formation 🛦	
		·	For identification		
Name:					
AKA's:					
Last known ac	ddress(es):				
Sex: M F	Race:	Height:	Weight:	Color of hair:	Color of eyes:
Scars, marks,	tattoos:				
Vehicle(s) link	ked to Arrestee	e:			
Other informa	tion:				

County of _____

SEARCH and ARREST WARRANT

Steagald Warrant [Penal Code § 1524(a)(6)]



THE PEOPLE OF THE STATE OF CALIFORNIA Warrant No. To any peace officer in _____ County **NAME OF ARRESTEE**: [Insert name here], hereinafter "Arrestee" **PREMISES TO BE SEARCHED**: [Insert address and, if necessary, a description], hereinafter "Premises" **AFFIANT:** [Insert affiant's name and agency], hereinafter "Affiant" **FINDINGS**: Based on the affidavit sworn to and subscribed before me on this date, I hereby make the following findings: **Arrest**: There is probable cause to believe that Arrestee committed the following crime(s): [List crime(s)] **Basis of probable cause**: Probable cause to arrest was established as follows: ☐ **Affidavit:** The affidavit in support of this warrant has set forth facts establishing probable cause to arrest. ☐ **Arrest warrant**: The affidavit in support of this warrant states that a warrant for Arrestee's arrest is outstanding. **Search**: There is probable cause to believe that Arrestee will be inside the Premises when this warrant is executed. **ORDERS**: You are hereby ordered to search forthwith the Premises for Arrestee and, if located, place Arrestee under arrest and bring Arrestee before any magistrate in this county pursuant to Penal Code §§ 821, 825, 826, and 848. **BAIL:** □ No bail ☐ Bail is set at \$ □ **NIGHT SERVICE**: Good cause for night service having been established in the supporting affidavit, this warrant may be executed at any hour of the day or night. Date and time warrant issued Judge of the Superior Court ◆ Arrestee Information ◆ For identification purposes only Name: AKA's: Last known address(es): Sex: M F Height: Weight: Color of hair: Color of eyes: Race: Scars, marks, tattoos: Vehicle(s) linked to Arrestee: Other information:

County of .	
-------------	--

Search Warrant Sealing Order

	Warrant No.
Place to be searched:	
	er: I hereby request that the following document(s) submitted in a warrant be sealed pending further order of the court:
Grounds for order : I believe t following reasons:	that the sealing of the above document(s) is warranted for the
PUBLIC INTEREST: Sealing ser	ves the following public interest:
	nformant (Evid. Code § 1041)
☐ Conceal official information	ation: (Evid. Code § 1040)
	ST: There exists a substantial probability that this public interest formation contained in this document(s) is not sealed.
NARROWLY TAILORED: I do no information without prejudici	ot believe it would be possible to release any of the sealed ing this public interest.
Declaration : I declare under po	enalty of perjury that the above information is true.
Date	Affiant
	of the California Rules of Court, the document(s) identified above the following manner pending further order of the court:
The document(s) shall be sea the envelope; and	aled in an envelope with a copy of this Order affixed to the front of
2) The Clerk of the Court shall	retain custody of the envelope in a secure place and shall not yone except as authorized by written order of the Court.
Date	Judge of the Superior Court

County of _____

Search Warrant

Vehicle Tracking Installation and Monitoring

GEAL OF
EUREKA TA
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The People of the State of California Warrant No. To Any Peace Officer in _____ County on this date, has established probable cause for this warrant as follows: "Target vehicle" defined: As used herein, the term "target vehicle" means one or both of the following: ☐ A particular vehicle: The following vehicle is the target vehicle: [Insert description] □ A vehicle occupied by a certain person: The target vehicle [is] [is also] any vehicle in which there is probable cause to believe the following person will be an occupant when it departs: [Identify the person to be tracked with reasonable specificity] "Tracking device" defined: As used herein, the term "tracking device" means any electronic or mechanical device that permits the tracking of the movement of a person or object. Pen. Code § 1534(b)(6). Evidence type: Pursuant to Pen. Code § 1524(a)(12) there is probable cause to believe that the tracking device will provide information that establishes the following: [Check one or more] ☐ That a particular person committed a felony or is committing one. ☐ That a particular felony was committed or is being committed. ☐ That a misdemeanor violation of the Fish and Game Code or the Public Resources Code was committed or is being committing, or that a particular person committed such violation. Orders **Installation**: You shall install a tracking device to any place inside or outside the target vehicle(s) as follows: When installation must occur: Installation must occur within ten days after this warrant is issued. **Entering private property**: If the target vehicle(s) [is] [are] parked on a private driveway or carport, you may enter the driveway or carport to install, remove, or repair the tracking device. **Night Service** (*Delete if not applicable*): Good cause having been established in the affidavit filed herewith, officers may install the tracking device(s) at any hour of the day or night. **Monitoring**: You shall utilize the tracking device to monitor the whereabouts and movements of the target vehicle(s) in any public or private place for 30 days after this warrant is issued. **Service of warrant**: Pending further order of this court, you are not required to serve a copy of this warrant on the person who was tracked or any other person. **Return of warrant**: You shall return this warrant to this court no later than ten calendar days after the conclusion of tracking pursuant to this warrant or any extensions of this warrant. **Sealing Order**: Good cause having been established in the affidavit in support of this warrant, this search warrant and the supporting affidavit are ordered sealed pending further order of the court and shall be delivered into the custody of the Clerk of the Court. **Grounds for sealing**:

Official information (Evid. Code § 1040) ☐ Informant protection (Evid. Code § 1041) [Check one or both] Judge of the Superior Court Date and time warrant issued

CHECKLIST FOR HANDLING SEARCH WARRANTS

(Sample Procedure—Alameda County Superior Court)

The following procedure outlines the manner in which Search Warrants issued by Judges presiding in the Superior Court, County of Alameda are handled by the Court and the Criminal Division Clerk's Offices:

- The officer prepares the warrant and the affidavit in support of the warrant and submits both to the judge for signature.
- After signing, the judge gives the original signed warrant to the officer and retains a copy. (A warrant issued via fax is labeled "Duplicate Original" by the officer upon receipt at the judge's direction).
- The judge retains the <u>ORIGINAL SIGNED AFFIDAVIT</u> (or a copy received via fax) along with a copy of the warrant. A copy of the signed affidavit may be provided to the officer for the officer's records, if requested.
- If the judge has made an **order sealing documents** submitted in support of the warrant, those documents should be placed in a sealed envelope with a copy of the sealing order affixed to the front. (The DA's Office is recommending to law enforcement that they present both the order and an envelope to the judge at the time the warrant is requested.)
- IMMEDIATE ACTION REQUIRED: Immediately upon retaining the signed affidavit and a copy of the signed warrant, the judge must take affirmative steps to secure and file these highly sensitive documents. If the warrant and affidavit are signed during working hours, the judge should immediately transfer the documents to the designated manager in the Criminal Division Clerk's Office. If the documents are signed after normal working hours, the judge should keep the documents confidential and secure until the next court day and then immediately transfer the documents to the designated manager.
- The judge should call the designated manager in the Criminal Division Clerk's Office and make arrangements for immediate and direct transfer of the affidavit and any accompanying documents from the judge to the manager. The most secure transfer, and thus the best practice, is for the judge to personally deliver the documents to the manager either in the Clerk's Office, courtroom or chambers. Alternatively, the judge may direct his/her clerk or courtroom attendant to personally deliver the documents to the designated manager.
- Under no circumstances should the judge leave the affidavit or the copy of the search warrant in chambers or the courtroom unsecured. The documents should not be kept by the judge beyond the first opportunity to transfer them to the designated manager in the Clerk's Office. These documents should not be transferred through QIC code. These documents should not be handed to or dropped off with subordinate employees of the Clerk's Office. They must be given directly to the designated supervisor on duty to insure proper filing and security of these documents.
- The affidavit is assigned a Register Number and logged in the Unified Search Warrant Register.
- The officer serves the warrant, retaining the original warrant signed by the judge.

- Within three (3) days of service the officer returns the <u>ORIGINAL WARRANT</u> (or duplicate original) along with the <u>ORIGINAL INVENTORY</u> to the Criminal Division Clerk's Office. **Note:** The officer must sign the inventory under penalty of perjury. The magistrate need not administer an oath.
- If the warrant is served and nothing is taken in the search, the officer returns the original warrant with an inventory form indicating "Nothing Taken".
- If the warrant is not served within 10 days, the officer must return the original warrant to the Criminal Division Clerk's Office with an inventory form stating "Warrant Not Served".
- The warrant and inventory are matched with the original affidavit, assigned the corresponding register number and maintained in the Criminal Division Clerk's Office.

All warrants and affidavits bearing the judge's original signature, whether served or unserved, must be returned to the Criminal Division Clerk's Office along with an inventory form signed by the officer.

EPO-001 ONE copy to court, ONE copy to restrained person, ONE copy to protected person, ONE copy to issuing agency EMERGENCY PROTECTIVE ORDER (See reverse for important notices.)

LAW ENFORCEMENT C	ASE NUMBER:

						<u> </u>			
1.	PROTEC	TED PER	SONS (nsert names	s of all persons p	protected by this	Order):		
2.	RESTRA	INED PER	RSON (n	ame):					
Sex	c:	∏F I	Ht.:	Wt.:	Hair color:	Eye color:	Race:	Age:	Date of birth:
3.	TO THE	RESTRAII	NED PE	RSON:	_	<u> </u>			
	р b. Т	ersonal pro OU MUST	operty o	f, disturb the ontact, eithe	peace of, keep	under surveillan ectly, by any me	ce, or block the	movements	stalk, molest, destroy any of each person named in item 1. d to by telephone, mail, e-mail or
	c. 🗌 Y	OU MUST	Γ	stay away a	at least:	yards from e	ach person na	med in item	1.
				stay away a	at least:	yards from	move	out immedia	ately from
			(ad	ldress):					
	any f e. YOU	irearms, yo MUST NO	ou must	turn them in	to a law enforce	ement agency or	sell them to a l n the addresse	icensed gun s or location	m or ammunition. If you have dealer (see page 2). s of any person named in item 1.
4.	(Nam	′	£ 410 0 0 0	nting / 10 n 10 n n			is given tem	porary care	and control of the following
	minor	children o	n the pa	rues (names	s and ages):				
5.	THIS OR	DER WIL	L EXPIR	RE AT THE	CLOSE OF THE	COURT BUSIN	ESS DAY ON:		
6.						n for a longer pe e county where y		CALENDAR DA	OF FIFTH COURT DAY OR SEVENTH AY, WHICHEVER IS EARLIER; DO NOT DAY THE ORDER IS GRANTED
	(Name a	nd address	s of cou	rt):					
	If you go	to court to	reques	restraining	orders, take you	ır copy of this for	m with you. If a	i juvenile pet	ition is pending, file in that court.
	or recurre		mestic v			oduction, elder o		ult abuse, or	essary to prevent the occurrence stalking. at (time):
					ADDI	ICATION	(*****		
9	The ever	its that cau	sed the	protected p			ent danger of	domestic viol	lence, child abuse, child
٥.	abduction	n, elder or	depende	ent adult abı	use (except sole	ly financial abus	e), or stalking a	re (give facts	s and dates; specify weapons):
10.	Firea	rms were:		bserved	reported	d sea	rched for [seized	
11.	1. The person to be protected lives with the person to be restrained and requests an order that the restrained person move out immediately from the address in item 3c.								
12. By:	requested because of the facts alleged in item 9. A custody order does does not exist.								
٠,٠		(PRINT	NAME OF	LAW ENFORCEM	MENT OFFICER)		(SIGN	ATURE OF LAW E	ENFORCEMENT OFFICER)
Age	ency:					Tele	phone No.:		Badge No.:
_					PROOF C	OF SERVICE	_		
13.	Person s	erved <i>(nan</i>	ne):						
14.	I persona Address:	Ily delivere	ed copie	s of this Ord	ler to the person	served as follow	s: Date:		Time:
						d not a party to the es not have to be			alifornia law enforcement officer. umber or address):
l de Dat		er penalty	of perju	ry under the	laws of the Stat	e of California th	at the foregoing	g is true and	correct.
		(TYPE OR	PRINT NAM	E OF SERVER)		_		(SIGNATUR	E OF SERVER) Page 1 of 2

EMERGENCY PROTECTIVE ORDER WARNINGS AND INFORMATION

TO THE RESTRAINED PERSON: VIOLATION OF THIS ORDER IS A MISDEMEANOR PUNISHABLE BY A \$1,000 FINE, ONE YEAR IN JAIL, OR BOTH, OR IT MAY BE PUNISHABLE AS A FELONY. THIS PROTECTIVE ORDER SHALL BE ENFORCED BY ALL LAW ENFORCEMENT OFFICERS IN THE STATE OF CALIFORNIA WHO ARE AWARE OF OR SHOWN A COPY OF THE ORDER. THE TERMS AND CONDITIONS OF THIS ORDER REMAIN ENFORCEABLE REGARDLESS OF THE ACTS OF THE PARTIES; IT MAY BE CHANGED ONLY BY ORDER OF THE COURT (PENAL CODE SECTION 13710(b)).

YOU ARE PROHIBITED FROM OWNING, POSSESSING, PURCHASING, RECEIVING, OR ATTEMPTING TO PURCHASE OR RECEIVE A FIREARM OR AMMUNITION (PENAL CODE SECTIONS 29825(a), 30305(a)). A VIOLATION IS SUBJECT TO A \$1,000 FINE AND IMPRISONMENT OR BOTH. YOU MUST TURN IN YOUR FIREARMS TO A LAW ENFORCEMENT AGENCY OR SELL THEM TO A LICENSED GUN DEALER WITHIN 24 HOURS OF RECEIPT OF THIS ORDER. PROOF OF SURRENDER OR SALE MUST BE FILED WITH THE COURT WITHIN 48 HOURS OF RECEIPT OF THIS ORDER.

To the restrained person: This order will last until the date and time in item 5 on the reverse. The protected person may, however, obtain a more permanent restraining order from the court. You may seek the advice of an attorney on any matter connected with this order. The attorney should be consulted promptly so that the attorney may assist you in responding to the order.

A la persona bajo restricción judicial: Esta orden durará hasta la fecha y hora indicada en el punto 5 al dorso. La persona protegida puede, sin embargo, obtener una orden de entredicho (restricción judicial) más permanente de la corte. Usted puede consultar a un abogado en conexión con cualquier asunto relacionado con esta orden. Debe consultar al abogado inmediatamente para que él o ella le pueda ayudar a responder a la orden.

To the protected person: This order will last only until the date and time noted in item 5 on the reverse. If you wish to seek continuing protection, you will have to apply for an order from the court at the address in item 6. You may apply for a protective order free of charge. In the case of an endangered child, you may also apply for a more permanent order at the address in item 6, or if there is a juvenile dependency action pending, you may apply for a more permanent order under section 213.5 of the Welfare and Institutions Code. In the case of a child being abducted, you may apply for a *Child Custody and Visitation Order* from the court. You may seek the advice of an attorney on any matter connected with your application for any future court orders. The attorney should be consulted promptly so that the attorney may assist you in making your application. You do not have to have an attorney to get the protective order.

A la persona protegida: Esta orden durará sólo hasta la fecha y hora indicada en el punto 5 al dorso. Si usted desea que la protección continúe, tendrá que solicitar una orden de la corte en la dirección indicada en el punto 6. La solicitud de la orden de protección es gratis. En el caso de que un niño o una niña se encuentre en peligro, puede solicitar una orden más permanente en la dirección indicada en el punto 6, o si hay una acción legal pendiente de tutela juvenil, puede solicitar una orden más permanente conforme a la sección 213.5 del código titulado en inglés **Welfare and Institutions Code**. En el caso del secuestro de un niño o una niña, usted puede solicitar de la corte una orden para la guarda del niño o de la niña (*Child Custody and Visitation Order*). Puede consultar a un abogado en conexión con cualquier asunto relacionado con las solicitudes de órdenes de la corte que usted presente en el futuro. Debe consultar un abogado inmediatamente para que él o ella le pueda ayudar a presentar su solicitud. Para obtener la orden de protección no es necesario que un abogado le represente.

To law enforcement: Penal Code section 13710(c) provides that, "[u]pon request, law enforcement agencies shall serve the party to be restrained at the scene of a domestic violence incident or at any time the party is in custody." The officer who requested the emergency protective order, while on duty, shall carry copies of the order. The emergency protective order shall be served upon the restrained party by the officer, if the restrained party can reasonably be located, and a copy shall be given to the protected party. A copy also shall be filed with the court as soon as practicable after issuance. The availability of an emergency protective order shall not be affected by the fact that the endangered person has vacated the household to avoid abuse. A law enforcement officer shall use every reasonable means to enforce an emergency protective order issued pursuant to this subdivision. A law enforcement officer acting pursuant to this subdivision shall not be held civilly or criminally liable if he or she has acted in good faith with regard thereto.

If a child is in danger of being abducted: This order will last only until the date and time noted in item 5 on the reverse. You may apply for a child custody order from the court.

En el caso de peligro de secuestro de un niño o de una niña: Esta orden será válida sólo hasta la hora y fecha indicada en el punto 5 al dorso. Usted puede solicitar de la corte una orden para la guarda del niño o de la niña (Child Custody and Visitation Order).

This emergency protective order is effective when made. This order shall expire on the date and time specified in item 5 on the reverse. The provisions of this emergency protective order take precedence in enforcement over provisions of other existing protective orders between the same protected and restrained persons to the extent the provisions of this order are more restrictive. In other words, the provisions in this emergency protective order take precedence over the provisions in any other protective order, including a criminal protective order, if (1) the person to be protected is already protected by the other protective order, (2) the person to be restrained is subject to that other order, and (3) the provisions in this emergency order are more restrictive than the provisions in that other order. The provisions in another existing protective order remain in effect and take precedence if they are more restrictive than the provisions in this emergency protective order.

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EMERGENCY PROTECTIVE ORDER (CLETS-EPO)

Page 2 of 2

(Domestic Violence, Child Abuse, Elder or Dependent Adult Abuse, or Stalking)

EMERGENCY PROTECTIVE ORDER (EPO) (Fam C §§6240–6274) QUICK REFERENCE GUIDE

A peace officer, sheriff's officer, parole, or probation officer will make contact by phone requesting an EPO and will fill out the form on site (Fam C §6240; Pen C §646.91(b)). An EPO is available 24 hours a day/7 days a week (Fam C §6241). An EPO is valid only if it is issued by a judicial officer (Fam C §6250.3). A prompt response to the requesting peace officer is critical to getting that officer back on patrol.

Does the EPO request meet statutory eligibility and proof requirements?

Who is eligible for an EPO?	Facts/Standard of Proof (Fam C §6251; stalking, Pen C §646.91) Reasonable grounds have been asserted that there is an immediate and present danger of:
Domestic violence perpetrated against a spouse/former spouse, registered domestic partner/former registered domestic partner, cohabitant or former cohabitant,* dating or engagement relationship,** parties who have a child together, child of the party or child subject to a paternity action, or any other person related by consanguinity or affinity in the second degree.*** (Fam C §§6250(a), 6211)	 Domestic violence based on person's allegation of recent abuse or threat of abuse. The EPO is necessary to prevent the occurrence or recurrence of domestic violence.
Child abuse (Fam C §6250(b))	 Child abuse by a family or household member. The EPO is necessary to prevent the occurrence or recurrence of child abuse.
Child abduction (Fam C §6250(c))	 Abduction by a parent or relative based on an allegation of recent attempt to abduct or flee the jurisdiction or a threat to abduct or flee. The EPO is necessary to prevent the occurrence or recurrence of abduction.
Elder or dependent adult abuse (Fam C §6250(d))	 Abuse based on an allegation of recent abuse or threat of abuse. An EPO may not be issued solely on allegations of financial abuse. The EPO is necessary to prevent the occurrence or recurrence of abuse.
Stalking (Pen C §646.91) (Stalking does not require that the parties have a personal relationship)	 Stalking based on the person's allegation that he or she has been willfully, maliciously, and repeatedly followed or harassed by another person. It must be a credible threat made with the intent to place the person who is the target of the threat in reasonable fear for his or her safety or the safety of their immediate family. The EPO is necessary to prevent the occurrence or recurrence of stalking.

^{*}Cohabitant is a person who regularly resides in the household (Fam C §6209). For example, sublessees of different units of a house, who shared some common areas of the house, but who had no romantic or friendly relationship and who were not even previously acquainted, were not cohabitants within the meaning of Family Code §6209. *O'Kane v Irvine* (1996) 47 CA4th 207, 212, 54 CR2d 549.

**A dating relationship as defined by Family Code §6210 means frequent, intimate associations characterized by the expectation of affection or sexual involvement independent of financial considerations.

Tip—Whether the respondent is in custody or the protected person left the home for safety reasons has no bearing on the availability of an EPO and should not be factored into the immediate and present danger determination.

^{***}Related by blood or marriage, e.g., grandparent, grandchild, brother/sister, parent, in-law.

Did you provide clear orders to the officer so that the EPO form is filled out properly?

Personal conduct restraints (Fam C §6252)	Cannot molest, attack, strike, stalk, threaten, sexually assault, batter, harass, telephone (including but not limited to annoying telephone calls as described in Pen C §653m), destroy personal property, contact (either directly or indirectly by mail or otherwise), or disturb peace of the party.
	The court, on a showing of good cause, can name other family or household members to be protected.
Stay Away (Fam C §6252)	Cannot come within a specified distance of the protected party and any named location
	TIP: Distance is discretionary, but standard distance is 100 yards.
Temporary care and control of a minor child (Fam C §6252)	TIP: Ask if there are existing custody orders. In a child abuse situation, ask if a juvenile court petition has been filed. This information will help you make an informed decision on who should be given temporary care and control of the minor child.
Residence Exclusion (Fam C §6252)	Immediate move out can be ordered if the protected party lives with the person to be restrained. The court may exclude a party from the dwelling only after 3 conditions have been met—see Fam C §6321(b)(1)–(3).
Firearms and Ammunition (Fam C §6389; Welf & I C §15657.03(t); Pen C §§646.91, 29825, 30305(a))	Automatic prohibition
Prohibited from taking action to locate protected party, or his or her family members, caretakers, or guardian (Fam C §6252.5; Pen C §§136.3(a), 646.91a)	Automatic prohibition
Duration (Fam C §6256; Pen C §646.91(g)(1), (2))	5 judicial business days or 7 calendar days maximum after EPO is issued. The count starts the day following the issuance of the EPO.

NOTE: A stalking EPO can include civil harassment and workplace violence protections (Pen C §646.91).

NOTE: A Criminal Protective Order has precedence in enforcement over any civil protective order against the defendant, unless a court issues an EPO in which case the EPO takes precedence in enforcement over any other restraining or protective order, provided the EPO meets the following requirements: (1) The EPO is issued to protect one or more individuals who are already protected persons under another restraining or protective order; (2) the EPO restrains the individual who is the restrained person in the other restraining or protective order; and (3) the provisions of the EPO are more restrictive in relation to the restrained person than are the provisions of the other restraining or protective order. Pen C §136.2(e)(2)(A)–(C); Fam C §6383(h).

This is a quick reference guide. Please read the full detailed section in the Judges Guide to Domestic Violence Cases: California Protective Orders (Rev. 2012).



Rev. June 2012

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